

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

Complaint on First-Class Mail  
Service Standards

Docket No. C2001-3

ANSWER OF THE UNITED STATES POSTAL SERVICE  
(July 13, 2001)

Introduction and Background

On June 19, 2001, the Postal Rate Commission received a complaint filed by Douglas F. Carlson. By letter dated June 21, 2001, the Office of the Secretary, Postal Rate Commission, designated the docket number above and advised the General Counsel, United States Postal Service, of the Complaint's filing under title 39, United States Code § 3662.<sup>1</sup>

The Complaint alleges that current First-Class Mail service levels result from a nationwide or substantially nationwide change in service that the Postal Service implemented before soliciting of an advisory opinion from the Postal Rate Commission under the terms of 39 U.S.C. § 3661(b) of the Act.<sup>2</sup> The Complaint also claims that current First-Class Mail service levels reflect "undue and unreasonable discrimination" among mail users, within the meaning of 39 U.S.C. § 403(c) of the Postal Reorganization Act; and are not "adequate" within the meaning of 39 U.S.C. §§ 403(a) and 3661(a). It also alleges that the service standard changes "may be arbitrary."

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<sup>1</sup> As implemented by 39 C.F.R. § 3001.81 *et seq.*

<sup>2</sup> As implemented by 39 C.F.R. § 3001.71 *et seq.*

The Complaint consists of 65 numbered paragraphs, accompanied by an Appendix and two Library Reference documents. Pursuant to 39 C.F.R. § 3001.84, the Postal Service answers each of the 65 enumerated paragraphs of the Complaint as follows:

Paragraph 1

This paragraph consists of Complainant's statement of his name and address.

No answer is required.

Paragraphs 2 through 5

These paragraphs do not consist of factual allegations. Instead, they consist of Complainant's characterizations of sections of the Postal Reorganization Act. No answers are required.

Paragraphs 6 through 8

These paragraphs do not consist of factual allegations. Instead, each is an assertion by Complainant of a legal conclusion concerning the jurisdiction of the Postal Rate Commission to hear service complaints under 39 U.S.C. § 3662. Accordingly, no answer is required.

Paragraph 9

The Postal Service admits the allegations in this paragraph.

Paragraph 10

The Postal Service admits that, in the years 2000 and 2001, it implemented the changes in two-day and three-day service standards for First-Class Mail referenced in this paragraph. Insofar as this paragraph asserts that these changes are of "a nationwide or substantially nationwide basis," it is not a factual allegation, but consists

of an assertion by Complainant of a legal conclusion regarding the applicability of 39 U.S.C. § 3661 to those changes and the jurisdiction of the Postal Rate Commission to hear service complaints under 39 U.S.C. § 3662 regarding those changes. Accordingly, no answer to this part of the paragraph is required.

Paragraph 11

This paragraph does not contain a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion concerning the applicability of 39 U.S.C. § 3661 to the service standard changes referenced above in paragraph 10. Accordingly, no answer is required.

Paragraph 12

This paragraph does not contain a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion concerning the obligation of the Postal Service to request an advisory opinion from the Postal Rate Commission under 39 U.S.C. § 3661 in advance of its implementation of the service standard changes referenced above in paragraph 10. Accordingly, no answer is required.

Paragraph 13

The Postal Service denies the allegations in this paragraph.

Paragraph 14

The Postal Service admits the allegation in the first sentence of this paragraph. The second sentence does not consist of a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion that no realignment in First-Class Mail service standards executed by the Postal Service since Docket No. N89-1 has been "nationwide," within the meaning of 39 U.S.C. § 3661. Accordingly, no answer is

required.

Paragraph 15

This paragraph consists of a quotation from a sentence on page 9-3 of the *2001 National Five-Digit ZIP Code and Post Office Directory* published by the Postal Service. No answer is required. Insofar as an answer is deemed to be required, the Postal Service admits that the sentence is accurately quoted. Appended to this paragraph of the Complaint is footnote 3. This footnote consists of Complainant's characterization of certain wording in the *1998 National Five-Digit ZIP Code and Post Office Directory* as "[s]imilar" to the sentence quoted from the 2001 ZIP Code Directory and his assertion that "[s]imilar language . . . possibly" appears in the ZIP Code Directories published in "other years." The Postal Service admits that the wording in the 1998 and 2001 ZIP Code Directories is similar. The Postal Service also admits that similar wording possibly may appear in ZIP Code directories published in other years.

Paragraph 16

The Postal Service denies that the First-Class Mail service standard changes referenced in paragraph 10 "represent a change in, departure from, or abandonment of the criteria that the Postal Service announced in Docket No. N89-1 and published in the *2001 ZIP Code Directory for two-day First-Class Mail service standards*."

Paragraph 17

This paragraph does not contain a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion that the alleged "change in, departure from, or abandonment of" the criteria referenced in paragraph 16 constitutes "a change in the nature of postal services that generally affects service on a nationwide or

substantially nationwide basis," within the meaning of 39 U.S.C. § 3661. Accordingly, no answer is required.

Paragraph 18

This paragraph does not contain a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion that the Postal Service was required by 39 U.S.C. § 3661(b) to request an advisory opinion from the Postal Rate Commission before implementing the alleged "change in, departure from, or abandonment of" the criteria referenced in paragraph 16. Accordingly, no answer is required.

Paragraph 19

The Postal Service denies the allegation that it has failed to request an advisory opinion from the Postal Rate Commission under 39 U.S.C. § 3661 concerning the changes in First-Class Mail service standards that Complainant characterizes as a "changing, departing from, or abandoning" the criteria that the Postal Service announced in Docket No. N89-1 and published in the 2001 ZIP Code Directory . . . ."

Paragraph 20

This paragraph does not contain a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion that the service standard changes referenced above in paragraph 10 result in First-Class Mail service not being "adequate" within the meaning of 39 U.S.C. §§ 403(a) and 3661(a). Accordingly, no answer is required.

Paragraph 21

This paragraph does not contain a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion that the service standard changes

referenced above in paragraph 10 "unduly and unreasonably discriminate among users of the mail" within the meaning of 39 U.S.C. § 403(c). Accordingly, no answer is required.

Paragraph 22

This paragraph does not contain a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion that the service standard changes referenced above in paragraph 10 result in First-Class Mail service not being "adequate" within the meaning of 39 U.S.C. §§ 403(a) and 3661(a). Accordingly, no answer is required.

Paragraph 23

The Postal Service admits all aspects of this paragraph except the allegation that the service standard changes described therein result in First-Class Mail service that is "inadequate." Complainant's characterization of the resulting service as "inadequate" is not a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion that the service standard changes referenced in the paragraph result in First-Class Mail service that is not "adequate," within the meaning of 39 U.S.C. §§ 403(a) and 3661(a). Accordingly, no answer is required.

Paragraph 24

The Postal Service admits that remittance mail travels from California to Arizona and to SCF Las Vegas NV. The Postal Service lacks sufficient information about Complainant's use of the term "substantial" to form a belief regarding the characterization of the volume of such mail as "substantial."

Paragraph 25

The Postal Service lacks sufficient information with which to form a belief regarding the allegation that at least one California bank services California customers by First-Class Mail from operation centers in Arizona and Oregon. The Postal Service lacks sufficient information about Complainant's use of the term "major" to form a belief regarding the characterization of such a bank as "major."

Paragraph 26

The Postal Service admits that, of customers surveyed concerning First-Class Mail service from Seattle to San Francisco as part of the market research conducted for purposes of Docket No. N89-1, a majority of the respondents who indicated that their service "Expectations" were for -3-day service expressed a preference for 2-day service in the "Needs" category.

Paragraphs 27 and 28

The Postal Service admits the allegations in these paragraphs.

Paragraph 29

The Postal Service admits the allegations in this paragraph.

Paragraph 30

The Postal Service admits the allegations in this paragraph.

Paragraph 31

The Postal Service admits that the changes in First-Class Mail service standards implemented in 2000 and 2001 result in both the elimination and creation of instances of 3-day service standards for First-Class Mail traveling between adjacent SCFs.

Paragraph 32

The Postal Service admits the allegations in the first sentence of this paragraph. In response to the second sentence, the Postal Service admits that "[u]nless the mailing day or normal delivery day is a holiday, the changes in First-Class Mail service standards add one day to delivery times for First-Class Mail that is deposited on Thursday and that is affected by the changes in delivery standards; a second day is added to delivery times by virtue of the fact that the intervening Sunday is a non-delivery day for First-Class Mail. In response to the third sentence, the Postal Service admits that "[i]f First-Class Mail affected by the changes in service standards is deposited on a Thursday and the following Monday is a holiday, the changes in First-Class Mail service standards adds one day to delivery times; a second day is added to delivery times by virtue of the fact that the intervening Sunday is a non-delivery day for First-Class Mail, and a third day is added to delivery times by virtue of the fact that the intervening holiday also is a non-delivery day for First-Class Mail. As a part of the service standard changes at issue in this proceeding, there were 22,253 more 3-digit ZIP Code area origin-destination pairs upgraded from 3-day service to 2-day service than the number of origin-destination pairs downgraded from 2-day to 3-day service. The paragraph does not address circumstances in which the service standard changes result in reductions in time-in-transit from origin to destination.

Paragraph 33

This paragraph consists of a characterization of a three-paragraph portion the testimony of Postal Service Docket No. N89-1 witness Lazerowitz and a *verbatim* quotation of those three paragraphs, with the footnotes omitted. The Postal Service

admits that the quotation is accurate, but denies that the characterization of the testimony of witness Lazerowitz is accurate or complete.

Paragraph 34

The Postal Service lacks sufficient information with which to form a belief regarding the assertion in the first sentence of this paragraph that "[b]usiness and residential customers need two-day delivery for First-Class Mail traveling between many SCF's for which the Postal Service changed the service standard from two days to three days in 2000 and 2001." Except as indicated in response to paragraph 26, the Postal Service lacks sufficient information with which to form a belief regarding the assertion in the second sentence of this paragraph that "[e]xamples include, but are not limited to, those identified in paragraph 23" of the Complaint.

Paragraph 35

The Postal Service lacks sufficient information about Complainant's use of the term "many" to form a belief regarding the allegation in the first sentence of this paragraph. The Postal Service admits that between at least one pair of SCFs for which it changed the service standards from two days to three days in 2000 and 2001, air transportation exists that may be at least as reliable as the air transportation that the Postal Service uses to transport First-Class Mail between at least one other SCF pair in the postal system. The Postal Service lacks sufficient information with which to form a belief regarding the assertion in the second sentence that "[e]xamples include, but are not limited to, those identified in paragraph 23" of the Complaint.

Paragraph 36

The first sentence of this paragraph consists of Complainant's characterization of a "primary goal of the [2000 and 2001 service standard] changes at issue in this proceeding. To the extent that an answer is deemed to be required, the Postal Service denies that Complainant has accurately or completely characterized a primary goal of the changes. The second sentence consists of Complainant's characterization of the shift to a greater degree of reliance upon ground transportation for 2-day First-Class Mail as a "change in the nature of postal services that generally affects service on a nationwide or substantially nationwide basis." This is not a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion that the service standard changes are of a character subject to the jurisdiction of the Postal Rate Commission under 39 U.S.C. § 3661(b). Accordingly, no answer is required.

Paragraph 37

The first sentence of this paragraph consists of a characterization of a Library Reference (DFC-LR-1) filed by Complainant in this proceeding. No answer is required. In response to the second sentence, the Postal Service admits that the Library Reference includes a copy of an Excel spreadsheet it provided to the Complainant and that the spreadsheet purports to list all of the changes in First-Class Mail service standards that the Postal Service implemented in 2000 and all those which were implemented through May 19, 2001.

Paragraph 38

The Postal Service admits the allegation in the first sentence of this paragraph. The second sentence consists of Complainant's characterization of a document contained in DFC-LR-1, his January 27, 2001, request for records under the Freedom of Information Act (FOIA). No answer is required. The Postal Service admits the allegation in the third sentence of this paragraph. The fourth sentence contains a premise that includes the assertion of a legal conclusion regarding the Postal Service's compliance with the requirements of the FOIA and the statement of a second legal conclusion regarding the applicability of 39 U.S.C. § 3661 to the service standard changes at issue in this proceeding. Accordingly, no answer is required in response to either legal assertion. Insofar as the fourth sentence alleges that the "Postal Service changed First-Class Mail service standards . . . using no written criteria other than the words and phrases contained in a PowerPoint or similar presentation provided in response to . . . [Complainant's] FOIA request . . .", the allegation is denied. To the extent that both the fourth and fifth sentences of this paragraph allege that the referenced "PowerPoint or similar presentation" concerned a "nationwide" or "substantially nationwide" realignment plan, these sentences do not state factual allegations. Instead, they consist of Complainant's assertions of a legal conclusion regarding the applicability of 39 U.S.C. 3661 to such a plan. Accordingly, to that extent, no answers to these sentences are required. Otherwise, in response to the fourth and fifth sentences, the Postal Service admits that the words and phrases in the PowerPoint refer, in part, to the service standard changes at issue in this proceeding.

Paragraph 39

This paragraph does not contain a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion that "[t]he criteria and process that the Postal Service employed to change First-Class Mail service standards in 2000 and 2001 do not ensure that the revised standards" will provide customers with service that is "adequate," within the meaning of 39 U.S.C. §§ 403(a) and 3661(a). Accordingly, no answer is required.

Paragraph 40

This paragraph does not contain a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion that "[t]he changes in some First-Class Mail service standards that the Postal Service implemented in 2000 and 2001" may be "arbitrary," as the Commission interprets that term in the context of reviewing allegations made under 39 U.S.C. § 3662. Accordingly, no answer is required.

Paragraph 41

This paragraph does not contain a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion regarding 39 U.S.C. 403(c) that "[t]he criteria and process that the Postal Service employed to change First-Class Mail service standards in 2000 and 2001" do not ensure that "the revised standards will not unduly or unreasonably discriminate against some users of the mail located in California and other Western states, in a manner not specifically authorized by title 39." Accordingly, no answer is required.

Paragraph 42

This paragraph does not contain a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion regarding 39 U.S.C. § 403(c) that the goal characterized in paragraph 36 of the Complaint "unduly and unreasonably discriminates against some users of the mail located in California and other Western states, in a manner not specifically authorized by title 39." Accordingly, no answer is required.

Paragraph 43

This paragraph does not contain a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion regarding 39 U.S.C. § 403(c) that "[c]ompared to the service standards provided to users of the mail in other states, the changes in First-Class Mail service standards unduly and unreasonably discriminates against users of the mail located in California and other Western states, in a manner not specifically authorized by title 39, by depriving them of two-day First-Class Mail service to a reasonable number of neighboring states with which they have significant contacts and need two-day First-Class Mail service." Accordingly, no answer is required.

Paragraph 44

This paragraph consists of a characterization of 39 U.S.C. § 3661 for which no answer is required.

Paragraph 45

This paragraph does not state a factual allegation. Instead, it consists of Complainant's statement of a legal conclusion that the Postal Service cannot

adequately plan, develop promote and provide adequate and efficient postal services without the input and review provided through a proceeding conducted under 39 U.S.C. § 3661(c) "because an essential step in the process will have been omitted." Accordingly, no answer is required.

Paragraph 46

To the extent that this paragraph alleges that the Postal Service implemented the 2000 and 2001 service standard changes without first requesting an advisory opinion under 39 U.S.C. § 3661(b) from the Postal Rate Commission, the allegation is denied. To the extent that the paragraph asserts that the Postal Service cannot adequately plan, develop promote and provide adequate and efficient postal services without the input and review provided through a 39 U.S.C. § 3661(b) proceeding "because an essential step in the process will have been omitted, then the paragraph does not state a factual allegation. Instead, it consists of Complainant's statement of a legal conclusion for which no answer is required.

Paragraph 47

This paragraph does not state a factual allegation. Instead, it consists of Complainant's statement of a legal conclusion that "[t]he criteria and process that the Postal Service employed to change the First-Class Mail service standards in 2000 and 2001 did not ensure that the Postal Service would obtain sufficient public input" in a 39 U.S.C. § 3661(c) proceeding "before implementing changes . . . ." Accordingly, no answer is required.

Paragraph 48

The Postal Service denies the allegation that, in implementing First-Class Mail service standard changes in 2000 and 2001, it materially departed from any operating procedures described in the Docket No. N89-1 testimony of Postal Service witness Lazerowitz. Insofar as this paragraph asserts that the Postal Service failed "to obtain sufficient public input before changing First-Class Mail service standards in 2000 and 2001 . . .", it does not state a factual allegation. Instead, it consists of Complainant's statement of a legal conclusion regarding that quality of public input required in a 39 U.S.C. § 3661(c) proceeding. Accordingly, no answer is required.

Paragraph 49

The Postal Service admits that, in the years 2000 and 2001, out of the existing 849,106 First-Class Mail 3-digit ZIP Code area origin-destination pairs, it made adjustments to 76,443 pairs. Of this total, there were 27,095 downgrades from 2-day to 3-day service and 49,348 upgrades from 3-day to 2-day service.

Paragraph 50

The Postal Service admits the allegations in this paragraph.

Paragraph 51

The Postal Service admits the allegations in this paragraph. See the response to paragraph 49.

Paragraph 52

The Postal Service admits the allegations in this paragraph.

Paragraph 53

The Postal Service admits the allegations in this paragraph.

Paragraph 54

The Postal Service admits the allegations in this paragraph.

Paragraph 55

The Postal Service admits the allegations in this paragraph.

Paragraph 56

The Postal Service lacks sufficient information with which to form a belief regarding this allegation.

Paragraph 57

The Postal Service admits the allegations in this paragraph.

Paragraph 58

This paragraph does not consist of a factual allegations. Instead, it consists of six sentences reflecting either Complainant's opinion or a legal conclusion regarding the percentage of First-Class Mail 3-digit ZIP Code area origin-destination pairs "that could reasonably have been considered for changes in two-day or three-day service standards" in 2000 and 2001. Accordingly, no answer is required.

Paragraph 59

This paragraph does not state a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion about the requirements of 39 U.S.C. § 3661(b). Accordingly, no answer is required.

Paragraph 60

The Postal Service admits the allegations in all four sentences of this paragraph.

Paragraph 61

The Postal Service admits the allegations in both sentences of this paragraph.

Paragraph 62

The Postal Service lacks sufficient information with which to form a belief regarding the allegations in the first sentence of this paragraph. With respect to the second sentence, the Postal Service denies that there has been any "change in, departure from, or abandonment of" the Docket N89-1 criteria or the 2001 ZIP Code Directory for two-day service standards; the Postal Service also lacks sufficient information with which to form a belief regarding the allegations that the matters complained of affect Complainant "and most other postal customers nationwide." In response to the third sentence, the Postal Service lacks sufficient information about the basis for Complainant's use of such terms as "particularly severely", "negatively", and "many" with which to form a belief regarding the allegation that the matters complained about "affect particularly severely -- and negatively -- postal customers sending mail to and from many ZIP Codes in the Pacific Area and Western Area."

Paragraph 63

This paragraph does not state a factual allegation. Instead, it states a legal conclusion that "[m]any [postal] customers nationwide" are not receiving "adequate" First-Class Mail service, within the meaning of 39 U.S.C. §§ 403(a) and 3661(a). Accordingly, no answer is required.

Paragraph 64

This paragraph does not state a factual allegation. Instead, it consists of Complainant's assertion of a legal conclusion that "[m]any users of the mail . . .," including Complainant, "are subject to undue and unreasonable discrimination", within the meaning of 39 U.S.C. § 403(c). Accordingly, no answer is required.

Paragraph 65

This paragraph does not state a factual allegation. It consists of Complainant's prayer for relief. Accordingly, no answer is required. Insofar as an answer is deemed required, the Postal Service denies that Complainant is entitled to the relief requested or to any relief whatsoever.

The Postal Service denies all other allegations of material fact in the Complaint which have not been answered specifically herein.

Otherwise, the Postal Service denies that the Commission has jurisdiction or should exercise jurisdiction to hear the subject matter of the Complaint.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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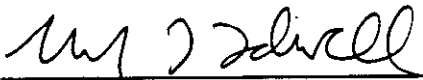
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## CERTIFICATE OF SERVICE

I hereby certify that, in accordance with section 12 of the Rules of Practice, I have this day served the foregoing document upon:

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